

§ 752.12 Recordkeeping requirements.

(a) *SCL holder and consignees.* In addition to the recordkeeping requirements of part 762 of the EAR, the SCL holder and each consignee must maintain copies of manuals, guidelines, policy statements, internal audit procedures, reports, and other documents making up the ICP of each party included under an SCL. Also, all parties must maintain copies of the most current Denied Persons List (see Supplement No. 2 to part 764 of the EAR) as well as all updates, and all other regulatory materials necessary to ensure compliance with the SCL, such as relevant changes to the EAR, product classification, additions, deletions, or other administrative changes to the SCL, transmittal letters and consignee's confirmations of receipt of these materials.

(b) *SCL holder.* The SCL holder is responsible for complying with the special reporting requirements for exports of certain commodities, software and technology under the Wassenaar Arrangement as described in § 743.1 of the EAR.

(c) *Consignees.* All consignees must retain all records of the types of activities identified in § 752.2(a)(3) of this part. Records on such sales or reexports must include the following:

- (1) Full name and address of individual or firm to whom sale or reexport was made;
- (2) Full description of each item sold or reexported;
- (3) Units of quantity and value of each item sold or reexported; and
- (4) Date of sale or reexport.

[61 FR 12835, Mar. 25, 1996, as amended at 66 FR 461, Jan. 3, 2002]

§ 752.13 Inspection of records.

(a) *Availability of records.* You and all consignees must make available all of the records required by § 752.12 of this part and § 762.2 of the EAR for inspection, upon request, by BIS or by any other representative of the U.S. Government, in accordance with part 762 of the EAR.

(b) *Relationship of foreign laws.* Foreign law may prohibit inspection of records by a U.S. Government representative in the foreign country where the records are located. In that

event, the consignee must submit with the required copies of Form BIS-752 an alternative arrangement for BIS to review consignee activities and determine whether or not the consignee has complied with U.S. export control laws and regulations, which must be approved by BIS.

(c) *Failure to comply.* Parties failing to comply with requests to inspect documents may be subject to orders denying export privileges described in part 764 of the EAR or to the administrative actions described in part 766 of the EAR.

§ 752.14 System reviews.

(a) *Post-license system reviews.* BIS may conduct system reviews of the SCL holder as well as any consignee. Generally, BIS will give reasonable notice to SCL holders and consignees in advance of a system review. The review will involve interviews with company officials, the inspection of records, and the review of ICPs. BIS may conduct special unannounced system reviews if BIS has reason to believe an SCL holder or consignee has improperly used or has failed to comply with the SCL.

(b) *Other reviews.* BIS may require an SCL holder or consignee to submit to its office a list of all sales made under the SCL during a specified time-frame. Also, BIS may request from any consignee a list of transactions during a specified period involving direct shipments of items received under SCLs to customers of other consignees and sales to customers in reexport territories authorized by BIS on the consignee's validated Form BIS-752.

§ 752.15 Export clearance.

(a) *Shipper's Export Declaration (SED) or Automated Export System (AES) record.* The SED or AES record covering an export made under an SCL must be prepared in accordance with requirements of the Foreign Trade Statistics Regulations (15 CFR part 30) and § 758.1 of the EAR.

(1) *Item descriptions.* Item descriptions on the SED or AES record must indicate specifically the ECCN and item description conforming to the applicable CCL description and incorporating

any additional information where required by Schedule B (*e.g.*, type, size, name of specific item, *etc.*).

(2) *Value of shipments.* There is no value limitation on shipments under the SCL; however, you must indicate the value of each shipment on the respective SED or AES record.

(3) *SCL number.* The SED or AES record must include the SCL number followed by a blank space, and then the consignee number identifying the SCL's approved consignee to whom the shipment is authorized.

(b) *Destination control statement.* The SCL holder and consignees must enter a destination control statement on all copies of the bill of lading or air waybill, and the commercial invoice covering exports under the SCL, in accordance with the provisions of § 758.6 of the EAR. Use of a destination control statement does not preclude the consignee from reexporting to any of the SCL holder's other approved consignees or to other countries for which specific prior approval has been received from BIS. In such instances, reexport is not contrary to U.S. law and, therefore, is not prohibited. Another destination control statement may be required or approved by BIS on a case-by-case basis.

[61 FR 12835, Mar. 25, 1996, as amended at 62 FR 25466, May 9, 1997; 65 FR 42570, July 10, 2000; 68 FR 50473, Aug. 21, 2003]

§ 752.16 Administrative actions.

(a)(1) If BIS is not satisfied that you or other parties to the SCL are complying with all conditions and requirements of the SCL, or that ICPs employed by parties to such licenses are not adequate, BIS may, in addition to any enforcement action pursuant to part 764 of the EAR, take any licensing action it deems appropriate, including the following:

(i) Suspend the privileges under the SCL in whole or in part, or impose other restrictions;

(ii) Revoke the SCL in whole or in part;

(iii) Prohibit consignees from receiving items authorized under the SCL, or otherwise restrict their activities under the SCL;

(iv) Restrict items that may be shipped under the SCL;

(v) Require that certain exports, transfers or reexports be individually authorized by BIS;

(vi) Restrict parties to whom consignees may sell under the SCL; and

(vii) Require that an SCL holder provide an audit report to BIS of selected consignees or overseas operations.

(2) Whenever necessary to protect the national interest of the U.S., BIS may take any licensing action it deems appropriate, without regard to contracts or agreements entered into before such administrative action, including those described in paragraphs (a)(1) (i) through (vii) of this section.

(b) *Appeals.* Actions taken pursuant to paragraph (a) of this section may be appealed under the provisions of part 756 of the EAR.

§ 752.17 BIS mailing addresses.

You should use the following addresses when submitting to BIS applications, reports, documentation, or other requests required in this part 752: Bureau of Industry and Security, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044, "Attn: Special Licensing and Compliance Division". If you wish to send the required material via overnight courier, use the following address: Bureau of Industry and Security, U.S. Department of Commerce, 14th and Pennsylvania Avenue, N.W., Room 2705, Washington D.C. 20230 "Attn: Special Licensing and Compliance Division". You may also reach the Special Licensing and Compliance Division by phone (202)482-0062, or telefacsimile on (202)501-6750.

SUPPLEMENT NO. 1 TO PART 752—INSTRUCTIONS FOR COMPLETING FORM BIS-748P, MULTIPURPOSE APPLICATION FOR REQUESTS FOR SPECIAL COMPREHENSIVE LICENSES

All information must be legibly typed within the lines for each Block or box, except where a signature is required. Where there is a choice of entering a telephone or telefacsimile number, and you chose a telefacsimile number, identify the number with the letter "F" immediately following the number.

Complete Blocks 1, 2, 3 and 4 according to the instructions in Supplement No. 1 to part 748 of the EAR.

Block 5: Type of Application. Enter an "x" in the Special Comprehensive License box.